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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,037	11/02/2001	William D. Morgan	IAEC:006US/MTG	1213

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EXAMINER

MENON, KRISHNAN S

ART UNIT PAPER NUMBER

1723

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/003,037

Applicant(s)

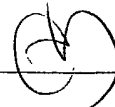
MORGAN ET AL.

Examiner

Krishnan S Menon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

Claims 1-18 and 20-32 are pending.

### *Drawings*

The drawings were received on 1/02/04. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 and 16-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilson et al (US 4,438,863).

Wilson teaches a pond covering system with a membrane (figures, col 3 lines 3-7) having floatation members covered by the membrane (col 3 lines 20-54; 22,28-fig 4; fig 1; col 3 lines (26-29) and plurality of gas relief vents (col 3 lines 30-43; at 34-fig 4) as in instant claims 1 and 7. With ref to fig 4, a combination of one of the float 22 on the left and the membranes 10 on the right could be identified as the first membrane and the first float to read into claim 1, and the sleeve 28 covering the float 22 could be the compartment membrane.

Claim 16 defines a first membrane, a second membrane, a float whose width is less than 25% of the first membrane, and a gas relief vent defined by and between the first and second membrane. The floats (22-fig 4) which are completely covered by the

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membrane (28, which is of material same as that of 10) have space 32 between them forming a gas-collecting channel, with the spaces between the straps (34) and vent openings (38) carrying the gas to the gas pipe (36). The membrane is 10, and there are two of them – to the left and to the right of the floats 22. Floats 22 are narrower than the membrane (width <25% of the membrane). Therefore, as recited in claim 16, first and second membranes are coupled, with the gas relief passages between them. Re the second float coupled to the first membrane and a first elongated weight positioned on the upper surface between the first and second floats: see col 5 lines 33-38 and fig 7.

Claims depending from 1 and 16: The gas relief passage is elevated above the membrane level as in instant claim 6 (see fig 2 and 4). The floatation members are sealed inside the membrane as in instant claims 2-5, 17 and 18 (fig 2,4,6, 68- fig 8). A link member couples the floatation members as in instant claim 8 and 9 (40a-fig 4) with a weight (pipe 36-fig 4), and a second elongated member as in instant claim 10 and 20 (see 50-fig 7). The membrane is anchored by an anchor system as in instant claim 11 and 21 (col 3 lines 20-25), which comprises connectors coupled to the edge of the membranes as in instant claim 12 and 22 with sleeves as in instant claim 13 and 23 (20 fig 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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1. Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (863) in view of Vogel et al (US6,136,194).

Wilson (863) teaches the membrane cover of instant claims as in instant claims 1 and 7 above, except for the service opening. Vogel (194) teaches a service opening with adequate edge support floatation members (formed by 51-fig 2) for elevating the service opening edge above the a body containing liquid, and service opening membrane (formed by 52) coupled to the service opening edge, for supporting mechanical equipment, etc (col 5 lines 4-23) in a floating pool cover. It would be obvious to one of ordinary skill in the art at the time of invention to use the teachings of Vogel (194) in the teachings of Wilson (863) to provide service openings for providing mechanical equipment, etc.

2. Claims 15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (863) in view of Vogel et al (US6,136,194) as applied to claims 14, 24 above, and further in view of Ballu (US 4,244,819)

Wilson in view of Vogel does not teach a service opening weight coupled to the membrane and spaced apart from the edge. However, providing a weighted-down "ballast" is commonly used for floating edges for stability as taught by Ballu (see figures; col 1 lines 34-39). It would be obvious to one of ordinary skill in the art at the time of invention to provide a weight as taught by Ballu in the teaching of Wilson in view of Vogel for stability of the floating edges of the service opening.

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3. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (863) in view of Vogel et al (US6,136,194) and Ballu (US 4,244,819)

Wilson teaches a floating cover having a first membrane, and a floatation member coupled to the first membrane (figures, col 3 lines 3-54). Wilson does not teach a service opening with membrane coupled to the service opening extending down through the opening. Vogel (194) teaches a service opening with edge support floatation members (formed by 51-fig 2) for elevating the service opening edge above the a body containing liquid, and service opening membrane (formed by 52) coupled to the service opening edge. Ballu teaches membrane extending down, as in claim 26, for a weighted ballast as in claim 27 (figures, col 1 lines 34-39). It would be obvious to one of ordinary skill in the art at the time of invention to use the teaching of Vogel and Ballu in the teaching of Wilson for supporting mechanical equipment, etc, as taught by Vogel (col 5 lines 4-23), with a ballast for stability as taught by Ballu, in a floating pool cover.

4. Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (863) in view of Vogel et al (US6,136,194).

Wilson (863) teaches a method for venting pool with providing a membrane pool cover having one or more membranes and float supports sealed in the membrane, and with a series of gas vent openings as in instant claims 28-32 (see figures 1-10 and col 3 line 3-col 6 line 58). Wilson does not teach venting directly to the atmosphere. Vogel teaches venting gas vent passages directly to the atmosphere in a floating pool cover (col 3 lines 50-65), especially from the membrane edges (see figure2). It would be

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obvious to one of ordinary skill in the art at the time of invention to use the teaching of Vogel in the teaching of Wilson to vent the cover directly to the atmosphere, when separate collection of the gases as taught by Wilson is deemed unnecessary.

### ***Response to Arguments***

Applicant's arguments filed 1/2/04 have been fully considered but they are not persuasive.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

Argument re the gas relief passageways in claim 1-13: see passageways 48 (col 4 lines 55-66, fig 4-7), and passageways 34 (fig 4).

Arguments re rejection of claim 16-23: Cover 10 and the cover 28 covering the float material 22 are same material, pipe 36 is over the cover material 28, and is between the first and second float.

Argument re rejection of claims 26 and 28-32: moot – new grounds for rejection.

Applicant's statement re the dependent claims is not persuasive – no arguments given.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Krishnan Menon  
Patent Examiner

  
W. L. WALKER  
SUPERVISORY PATENT EXAMINER  
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